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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,658	03/29/2001	Jan Van Ee	US018032	8524

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BRIARCLIFF MANOR, NY 10510

EXAMINER

SALCE, JASON P

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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12/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/823,658

Applicant(s)

VAN EE, JAN

Examiner

Jason P. Salce

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-10, 12 and 16-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-10, 12 and 16-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1, 3-10, 12 and 16-23 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 4, 7-10, 16, 18 and 22-23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Referring to claims 4, 7-10, 16 and 22-23, Applicant states that a second system sends a user preference to the server and the server generates control data responsive to the receiving the user preference. In view of claim 1, another system has already been used to send a user preference to the server and responsive to receiving the user preference generating control data. Paragraph 0013 clearly teaches the embodiment of claim 1, however, this portion of Applicant's specification only states that a second system is used to transmit a user preference to the server and generate control data in response to receiving the user preference. Although the specification teaches that

another system or a second system can receive the control data from the server and further transfer this data to the first system, nowhere does the specification teach that both a second and another system transmits a user preference to the server. Further the specification only states that a second or another system receives control data from the server, not both.

Referring to claim 18, Paragraph 0013 fails to teach the additional limitations recited in claim 18. Further the remainder of the specification of the instant application fails to teach the limitations of claim 18, and even if the specification of the instant application did teach the limitations, the specification of the instant application fails to teach how the embodiment of Paragraph 0013 (claim 1) can be integrated with such additional features.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The examiner notes that the limitation, "configuring the first consumer electronics system as to functional parameters", is not proper English and cannot understand what the Applicant is trying to claim. The examiner will assume that the first consumer electronics system is configured according to functional parameters.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, 5-6, 12, 17 and 19-21 rejected under 35 U.S.C. 102(e) as being clearly anticipated by Wakai et al. (U.S. Patent No. 7,194,758).

Referring to claim 1, Wakai discloses a method for programming a first consumer electronics system for operation according to a user preference (**see the third embodiment at Column 24, Line 61 through Column 25, Line 3 for receiving a key to descramble/program a first consumer electronics system**).

Wakai also discloses receiving at another system (**the operating device/cellular phone 203 in Figure 1**), from a server via a network (**host station 207 in Figure 1**), control data according to such user preference (**see Column 34, Lines 2-7 for sending the descramble key for a selected program to the operating device 203**) and transferring control data from said another system to the first consumer electronics system (**see Column 34, Lines 7-9**), wherein said another system comprises a remote control unit associated for proximate control of the first consumer electronics system (**see Figure 1 for the operating device 203 being proximate to the receiving device 202**).

Referring to claim 3, Wakai discloses that the remote control unit programs the first consumer electronics system upon transfer of the control data to the first consumer electronics system (**see Column 34, Lines 9-14 for using the descrambling key/control data to program (descramble) a program requested by the user (the user preference))**).

Referring to claim 5, Wakai discloses that the control data relates to configuring the first consumer electronics system for selective processing of content information (**see the rejection of claim 3**).

Referring to claim 6, Wakai discloses that the first system comprises a home entertainment system (**see Figure 1 for receiving device 202 providing television signals to a TV**).

Referring to claim 12, Wakai discloses that the server has access to a database containing information relating to the user and further generating said control data responsive to the information (**see Column 27, Line 65 through Column 31, Line 3**).

Referring to claim 17, Wakai discloses receiving and transferring said control data is enforced upon activating a predetermined user interface of the remote control unit (**see Column 10, Lines 48-67**).

Referring to claim 19, Wakai discloses that the control data relates to configuring the first consumer electronics system according to functional parameters (**see the rejection of claim 1 for configuring the first consumer electronics system according to descrambling information (functional parameters)**).

Referring to claim 20, Wakai discloses that the server and the database are under common control (**see Figure 5 for the server and database being controlled by the same CPU and bus, and further note that the CPU and database are contained at the same location**).

Referring to claim 21, Wakai discloses that the server is controlled by a first entity and the database is controlled by a second entity (**see Figure 5 for the host station being controlled over bus 505 and the database 516 being controlled by bus 514**).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason P Salce
Primary Examiner
Art Unit 2623



December 5, 2007